

THE EFFECTIVE DATE OF THIS ORDINANCE IS MAY 15, 2007

ORDINANCE NO. 07-13-453

RE: Recordation Tax

PREAMBLE

State law imposes a recordation tax on instruments of writing that convey title to or create or give notice of a security interest in real property that are submitted for recording in the land records of Frederick County, Maryland. Annotated Code of Maryland, Tax-Property Article, Section 12-102. State law further authorizes the Board of County Commissioners ("Board") to establish the recordation tax rate for Frederick County. Annotated Code of Maryland, Tax-Property Article, Section 12-103.

By Ordinance No. 00-06-248 the Board established a recordation tax rate of \$5.00 for each \$500.00 or fraction of \$500.00 of consideration payable or of the principal amount of the debt secured for an instrument of writing. At that time, the Board allocated 30% of the proceeds of such recordation tax to specific Frederick County Government purposes. By Ordinance No. 06-07-403, effective March 21, 2006, the Board further allocated the proceeds of this recordation tax so that 35% of the proceeds were assigned to specific purposes. The Board established recordation tax rate and allocation are set forth in Section 1-8-51 of the Frederick County Code.

The Board now desires to increase and further allocate the proceeds of this recordation tax rate among designated uses within Frederick County Government.

A duly advertised public hearing on this proposed Ordinance amending Section 1-8-51 of the Frederick County Code was held by the Board on April 24, 2007. The public had an opportunity to comment on the proposed Ordinance at this public hearing.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Section 1-8-51 of the Frederick County Code is hereby amended to read as follows:

Section 1-8-51. RECORDATION TAX RATE AND ALLOCATION OF PROCEEDS.

(A) Definitions. In this section, the following terms shall have the meanings indicated.

AG. The Agriculture Article of the Maryland Code Annotated.

BOCC. The Board of County Commissioners of Frederick County, Maryland.

CODE. The Frederick County Code.

CRITICAL FARMS PROGRAM. The Frederick County Critical Farms Program, created by Ord. 94-02-097, codified at § 1-13-34 of the Code.

FREDERICK COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM. The Frederick County Agricultural Land Preservation Program created by motion of the BOCC on May 28, 1991, pursuant to the provisions of AG § 2-512.

INSTRUMENT OF WRITING. The meaning set forth in TP § 12-101(c).

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION PROGRAM. The Maryland Agricultural Land Preservation Foundation Program established and codified in AG §§ 2-501 et seq.

NR. The Natural Resources Article of the Maryland Code Annotated.

PROCEEDS FROM THE RECORDATION TAX. The proceeds the county receives from the recordation tax after any payment required by law to the State of Maryland.

RECORDATION TAX. The recordation tax authorized by TP §§ 12-102 et seq.

RURAL LEGACY PROGRAM. The Rural Legacy Program established and codified in NR §§ 5-9A-01 et seq.

TP. The Tax-Property Article of the Maryland Code Annotated.

- (B) Recordation tax rate. Pursuant to TP § 12-103(B)(1), the BOCC hereby sets the recordation tax rate at [\$5] \$6 for each \$500 or fraction of \$500 of consideration payable or of the principal amount of the debt secured for an instrument of writing. The consideration includes the amount of any mortgage or deed of trust assumed by the grantee(s).
- (C) Allocation of unrestricted proceeds from the recordation tax. [Sixty-Five] 54.166% percent of the proceeds from the recordation tax shall be unrestricted and shall go to the County General Fund.
- (D) Allocation of restricted proceeds from the recordation tax. The BOCC hereby restricts [35%] 45.834% of the proceeds from the recordation tax. The use of the funds from the [35%] 45.834% restricted portion of the proceeds from the recordation tax is limited as follows.

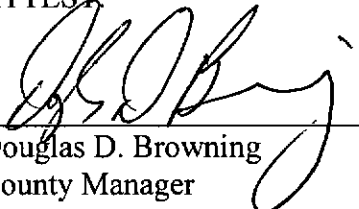
- (1) [Fifteen percent] 12.5% of the proceeds from the recordation tax shall be used for:
 - (a) The county's matching contribution toward the purchases of agricultural land preservation easements under the Maryland Agricultural Land Preservation Fund Program as set forth in AG §§ 2-501 et seq.;
 - (b) The purchase of development rights and to guarantee loans that are collateralized by development rights for agricultural lands under the Frederick County Agricultural Land Preservation Program pursuant to AG § 2-512(E)(2);
 - (c) The purchase of options to purchase development rights easements pursuant to § 1-13-34(H) of the Critical Farms Program and to purchase development rights easements pursuant to § 1-13-34(I) of the Critical Farms Program;
 - (d) The purchase of development rights, easements, or fee estates under the Rural Legacy Program;
 - (e) Other agricultural land preservation programs approved by the BOCC; or
 - (f) Some combination of the above programs.
- (2) [Fifteen percent] 12.5% of the proceeds from the recordation tax shall be used for the county's acquisition and development of recreational and open space land.
- (3) [Five percent] 4.167% of the proceeds from the recordation tax shall be used for the construction and financing of a new Frederick County Citizens' Nursing Home, otherwise known as the Citizens' Care and Rehabilitation Center of Frederick County. At such time as the construction is complete, construction costs paid and related debt retired, this dedicated five percent of recordation tax proceeds shall become unrestricted and shall go to the county general fund.
- (4) 16.667% OF THE PROCEEDS FROM THE RECORDATION TAX SHALL BE USED TO SUPPORT SCHOOL CONSTRUCTION TO INCLUDE, BUT NOT BE LIMITED TO, PAYMENT OF DEBT SERVICE ON GENERAL OBLIGATION DEBT ISSUED TO FUND SCHOOL CONSTRUCTION.

CAPITALS WITH UNDERLINING INDICATE ENTIRELY NEW MATTER ADDED TO EXISTING ORDINANCE; [BRACKETS] INDICATE DELETIONS TO EXISTING ORDINANCE.

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on May 15, 2007.

The undersigned hereby certifies that this Ordinance was approved and adopted by the Board of County Commissioners on the 24th day of April 2007 with its effective date established on the 26th day of April 2007.

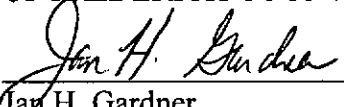
ATTEST:



Douglas D. Browning
County Manager

R. J. M.
4-26-07

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND



Jan H. Gardner
President